

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK**

---

GERALD J. MOBLEY,

Plaintiff,

9:21-cv-299 (BKS/ATB)

v.

SERGEANT CRANE, et al.,

Defendants.

---

**Appearances:**

*Plaintiff pro se:*

Gerald J. Mobley  
Brooklyn, NY 11205

*For Defendants:*

Letitia James  
Attorney General of the State of New York  
Brenda T. Baddam  
Assistant Attorney General, of Counsel  
The Capitol  
Albany, NY 12224

**Hon. Brenda K. Sannes, United States District Judge:**

**MEMORANDUM-DECISION AND ORDER**

Plaintiff pro se Gerald J. Mobley commenced this action under 42 U.S.C. § 1983 asserting claims arising out of his incarceration at Marcy Correctional Facility. (Dkt. No. 1). On June 21, 2021, Defendants filed a motion to dismiss under Fed. R. Civ. P. 12(b)(6) asserting that Plaintiff's claims were barred by the statute of limitations. (Dkt. No. 14). Plaintiff did not file a response to the motion. This matter was referred to United States Magistrate Judge Andrew T. Baxter who, on November 3, 2021, issued a Report and Recommendation recommending that Defendants' motion to dismiss be granted unless, in objections to the Report and

Recommendation, plaintiff asserted plausible grounds supporting equitable tolling of the applicable statute of limitations for a sufficient time period to render the filing date of his complaint timely. (Dkt. No. 16). Magistrate Judge Baxter advised the parties that under 28 U.S.C. § 636(b)(1), they had fourteen days within which to file written objections to the report, and that failure to object to the report within fourteen days would preclude appellate review. (*Id.* at 10–11). No objections were filed.

As no objections to the Report and Recommendation were filed, and the time for filing objections has expired, the Court reviews the Report and Recommendation for clear error. *See Petersen v. Astrue*, 2 F. Supp. 3d 223, 228–29 (N.D.N.Y. 2012); Fed. R. Civ. P. 72(b) advisory committee’s note to 1983 amendment. Having reviewed the Report and Recommendation for clear error and found none, the Court adopts the Report and Recommendation in its entirety.

For these reasons, it is


**ORDERED** that the Report and Recommendation (Dkt. No. 16) is **ADOPTED** in its entirety; and it is further

**ORDERED** that Defendants’ motion to dismiss (Dkt. No. 14) is **GRANTED**; and it is further

**ORDERED** that the Clerk serve a copy of this Order upon the parties in accordance with the Local Rules.

**IT IS SO ORDERED.**

Dated: December 7, 2021  
Syracuse, New York

  
Brenda K. Sannes  
U.S. District Judge